

81

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

71 17 18 17 13

| | | |
|----------------------------|---|-------------------------------|
| IN THE MATTER OF: |) | Docket No. CAA-05- 2001-0 022 |
| |) | |
| Russell Products Co., Inc. |) | Proceeding to Assess an |
| Cleveland, Ohio, |) | Administrative Penalty |
| |) | under Section 113(d) of the |
| |) | Clean Air Act, |
| Respondent. |) | 42 U.S.C. § 7413(d) |
| _____ |) | |

CONSENT AGREEMENT AND FINAL ORDER

CONSENT AGREEMENT

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. On 9/28/01, the Complainant filed the Administrative Complaint in this action against Respondent Russell Products Co., Inc. (Russell). The complaint alleges that Russell violated Section 112(f)(4) of the Act, 42 U.S.C. § 7412(f)(4), and National Emission Standards for Hazardous Air Pollutants (NESHAP) for Halogenated Solvent Cleaning (Degreaser MACT,), 59 Fed Reg 61805 (December 2, 1994), codified at 40 C.F.R. §§ 63.460 through 63.469 at its facility in Akron, Ohio.

Stipulations

3. Russell admits the jurisdictional allegations in the complaint and neither admits nor denies the factual allegations in the complaint.

4. Russell waives its right to any further notice other than that provided by Complainant, waives its right to contest the allegations in the complaint, and waives its right to appeal under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

5. Russell neither admits or denies specific factual allegations of the Administrative Complaint.

6. The parties consent to the terms of this consent agreement and final order (CAFO).

7. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalty

8. In consideration of the size of Russell, the economic impact of the penalty on Russell, Russell's compliance history and good faith efforts to comply, the duration of the violations, the seriousness of the violations, and other factors as justice may require, U.S. EPA proposes in the Administrative Complaint that a civil penalty of \$23,500 be assessed against Russell for the violations alleged in the complaint.

9. In consideration of Russell's willingness to expeditiously resolve this matter, without the further expenditure of public resources, Complainant agrees to settle this matter without further proceedings for Russell's payment of a civil penalty of \$21,000.

10. Russell must pay the \$21,000 civil penalty by cashier's or certified check payable to the "Treasurer, United States of America," within 30 days after the effective date of this CAFO.

11. Russell must send the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

12. A transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (R-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Richard Wagner, (C-14J)
Senior Attorney
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3509

13. This civil penalty is not deductible for federal tax purposes.

14. If Russell does not pay timely the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

15. Interest will accrue on any overdue amount from the date payment was due at a rate established under 26 U.S.C. § 6621(a)(2). Russell will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. Russell will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

General Provisions

16. This CAFO settles U.S. EPA's claims for civil penalties for the violations alleged in the Administrative Complaint.

17. Nothing in this CAFO restricts U.S. EPA's authority to seek Russell's compliance with the Act and other applicable laws and regulations.

18. This CAFO does not affect Russell's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations.

19. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy," and is evidence relevant to a determination of Russell's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

20. The terms of this CAFO bind Russell, and its successors, and assigns.

21. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

22. Each party agrees to bear its own costs and fees in this action.

23. This CAFO constitutes the entire agreement between the parties.

**U.S. Environmental Protection
Agency, Complainant**

Date: 9-27-01

By: 

Bharat Mathur, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

**Russell Products Co., Inc.,
Respondent**

Date: 9-6-01

By: 

Robert Evans, President
Russell Products Co., Inc.

CONSENT AGREEMENT AND FINAL ORDER
Russell Products Company, Inc.
Docket No.

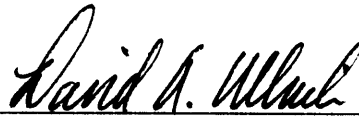
CAA-05-2001-0022

FINAL ORDER

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk.

Date:

9/28/01



Thomas V. Skinner
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

CAA-05-2001-0022

CERTIFICATE OF MAILING

I, Loretta Shaffer, do hereby certify that a Consent Agreement and Final Order was sent by Certified Mail, Return Receipt Requested, to:

Robert Evans, President
Russell Products Co., Inc.
12128 Sprecher Ave
Cleveland, Ohio 44135

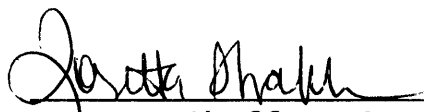
I also certify that copies of the Consent Agreement and Final Order were sent by first class mail to:

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049

and

Lynn Malcolm, Administrator
Akron Regional Air Quality Management District
146 South High Street
Room 904
Akron, Ohio 44308

on the 27th day of September, 2001.


Loretta Shaffer, Secretary
AECAS, (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: 70993400 0000 9601 4400

CAA-05- 2001-0 022